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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,  
  
Debtor.

Case No. BK-S-06-10725-LBR  
Chapter 11

**DECLARATION OF GEOFFREY L.  
BERMAN IN SUPPORT OF USACM  
TRUST'S MOTION TO ALLOW  
PROOFS OF CLAIM BASED UPON  
INVESTMENT IN THE AMESBURY  
HATTERS POINT LOAN**

Hearing Date: September 30, 2011  
Hearing Time: 9:30 a.m.  
Estimated Time for Hearing: 10 minutes

I, Geoffrey L. Berman, declare under penalty of perjury:

1. I am an adult person competent to testify in court.
2. I make this declaration based upon my personal knowledge, and upon the records USA Commercial Mortgage Company.
3. I am the Trustee of the USACM Liquidating Trust ("USACM Trust"), which is an entity created by the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization ("Plan"), in the jointly-administered bankruptcy cases, In re USA Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States Bankruptcy Court for the District of Nevada.

4. USACM circulated an Offer Sheet to prospective Direct Lenders soliciting funding for an acquisition and development loan to a borrower identified as “Amesburyport Corporation.” A copy of the Offer Sheet is attached hereto as **Exhibit B** and incorporated by this reference. The total loan amount proposed was \$21,750,000. *Id.* The Offer Sheet described the investment as a “First Trust Deed Investment” and noted that the investment would be secured by a “First Mortgage on buildings 1 through 9 at ‘Hatter’ Point’ in Amesbury, Massachusetts.” *Id.* The Offer Sheet stated that the loan proceeds would be used to “refinance the existing construction loan and provide construction funds to complete the balance of the project,” which was described as the restoration of 9 historic brick mill buildings for conversion in to condominiums. *Id.* The Offer Sheet stated that the loan-to-value was approximately 75% based on “revolver fundings of \$15 million to reach an appraised ‘aggregate retail sell-out’ of \$48,900,000” pursuant to a August 15, 2002 appraisal from Joseph J. Blake and Associates. *Id.*

5. On December 18, 2002, Borrower made and delivered to various lenders, including the Direct Lenders identified in **Exhibit A**, a “Promissory Note (Refinancing and Construction Loan)” (the “Note”) and a Loan Agreement. The Loan Agreement provided for a loan of up to \$21,750,000. *Id.* Pursuant to the Loan Agreement, the loan amount was intended for the “refinancing of certain existing debt of the Borrower, and for financing the construction of the Project.” *Id.* The Loan Agreement also provided for a \$5,000,000 “construction revolver” whereby the Borrower could borrow, repay, and then re-borrow \$5,000,000 of the loan.

6. The Note was secured by a “Construction Mortgage and Security Agreement” (the “Mortgage”) from Borrower in favor of the Direct Lenders, which was recorded in the official records of the Essex County South District Registry on December 18, 2002 at Instrument 2002121800924.

